

REMARKS

The Office Action of May 7, 2007, rejected Claims 1-21 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,742,754A, to Tse (hereinafter "Tse") in view of U.S. Patent Application Publication No. 2004/0194060 to Ousterhout (hereinafter "Ousterhout").

With this response, Claims 1-21 remain pending.

For the reasons set forth below, applicants respectfully traverse the rejections and request reconsideration and allowance.

35 U.S.C. § 103(a) Rejections

Claim 1

Applicants traverse the 35 U.S.C. §103(a) rejection of Claim 1 and submit that Tse and Ousterhout, alone and in combination, fail to disclose or teach each element of this claim. In particular, applicants submit that Tse and Ousterhout fail to disclose or teach:

generating a focused test suite from a master test suite according to the identified areas that, when executed, will exercise at least one identified area of the current software build that has been modified with regard to the reference software build.

The Office Action cites to Tse, Col. 1, line 64-Col. 2, line 7 and Figure 1, step 18 as reciting generating a focused test suite from a master test suite according to the identified areas (i.e., those areas identified as being modified in the current software build with respect to the reference software build.) However, applicants traverse this assertion and submit that Tse fails to disclose or teach **generating** a focused test suite from a master test suite according to the identified areas.

This recitation includes the positive step of "generating a focused test suite" and further identifies that the focused test suite is generated from a master test suite. In other words, a focused test suite is created from a second master test suite. In contrast, the relevant portion of the textual description corresponding to Tse, Figure 1, Step 18 is as follows:

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

From step 16 or step 14, the method proceeds to step 18 where a test suite is provided for product verification. In general, a test suite is a comprehensive list of data files having commands specifically programmed to initiate a number of functional aspects of the software product being tested.

As can be seen from the above description, it is clear that this passage fails to disclose "**generating** a focused test suite from a master test suite according to the identified areas," as recited in Claim 1. Rather, Tse discloses simply executing a provided test suite on the software product being tested. Applicants submit that a positive act of generating a focused test suite (as recited in Claim 1) is patentably distinct from obtaining a provided test suite (as recited in Tse). Moreover, nothing in this passage of Tse cites both a focused test suite and a master test suite, as well as the positive act of **generating** a focused test suite **from** a master test suite according to the areas of the current build that have been modified with regard to a reference test build.

For at least the reasons set forth above, applicants submit that Tse and Ousterhout, alone and in combination, fail to disclose or teach each element of Claim 1. It is well settled that in order to establish a *prima facie* case of obviousness, the reference or combination of references must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). As Tse and Ousterhout, alone and in combination, fail to disclose each element of Claim 1, applicants submit that a *prima facie* case of obviousness is not made. Accordingly, applicants submit that Claim 1 is in condition for allowance, and request that the 35 U.S.C. §103(a) rejection of this claim be withdrawn and the claim allowed.

Claim 2

In addition to depending from Claim 1, applicants submit that Tse and Ousterhout fail to disclose each element of Claim 2. In particular, applicants submit that Tse and Ousterhout, alone and in combination, fail to disclose:

generating information identifying areas of the current software build that have been modified with regard to the reference software build that

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206 682.8100

cannot be exercised by at least one test in the master test suite.
(Emphasis added.)

Applicants agree with the Office Action that Tse fails to disclose these elements. However, applicants traverse the assertion that Ousterhout discloses these elements. The cite passage of Ousterhout (Figure 7 and paragraph [0076]) describe an aspect of generating a build (which the Office Action previously equated to the current build in regard to Claim 1). Indeed, this paragraph and the application in general is directed to creating a build, not in testing aspects of a current build.

In light of the above, applicants submit that Tse and Ousterhout, alone and in combination, fail to disclose or teach each element of Claim 2. Accordingly, applicants submit that Claim 2 is in condition for allowance, and request that the 35 U.S.C. §103(a) rejection of Claim 2 be withdrawn and the claim allowed.

Claims 3-4

Claims 3-4 depend from independent Claim 1. Accordingly, applicants submit that Claims 3-4 are also in condition for allowance, and request that the 35 U.S.C. §103(a) rejections be withdrawn, and the claims allowed.

Claims 5-8

Claims 5-8 recite similar elements to those found in Claims 1-4, and were for the same rationale as set forth in regard to Claims 1-4. Accordingly, for the reasons set forth above in regard to Claims 1-4, applicants submit that Claims 5-8 are also in condition for allowance, and request that the 35 U.S.C. §103(a) rejections of Claims 5-8 be withdrawn and the claims allowed.

Claims 9-12

While differing in scope from Claims 1-4, Claims 9-12 recite substantially the same elements as found in Claims 1-4 and were rejected for the same rationale. Accordingly, for the

reasons set forth above in regard to Claims 1-4, applicants submit that Claims 9-12 are also in condition for allowance, and request that the 35 U.S.C. §103(a) rejections of Claims 9-12 be withdrawn and the claims allowed.

Claims 13-17

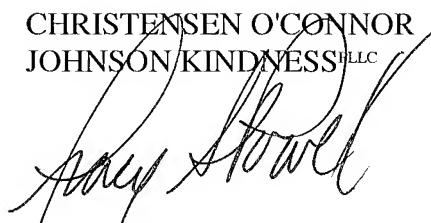
Claims 13-17 are directed to a computer-readable medium reciting the methods described in Claims 9-12. As applicants submit that Claims 9-12 are in condition for allowance, applicants further submit that Claims 13-17 are in condition for allowance, and request that the 35 U.S.C. §103(a) rejections of these claims be withdrawn and the claims allowed.

CONCLUSION

In view of the foregoing remarks, applicants respectfully submit that all the claims in this application are in condition for allowance. Applicants respectfully request reconsideration of the pending claims. Early and favorable action passing this application to issue is also respectfully solicited. If the Examiner has any further questions, the Examiner is invited to contact applicants' attorney at the number set forth below.

Respectfully submitted,

CHRISTENSEN O'CONNOR
JOHNSON/KINDNESS^{PLLC}



Tracy S. Powell
Registration No. 53,479
Direct Dial No. 206.695.1786

TSP:lal

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206 682.8100